

Amendment No. 2 to HB1944

Clemmons
Signature of Sponsor

AMEND Senate Bill No. 1944

House Bill No. 1944*

by deleting Section 1 and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-902(e), is amended by designating the existing language as subdivision (e)(1) and adding the following as new subdivisions:

(2) The exception in subdivision (e)(1) does not apply to the possession of obscene material by a local education agency; a public school, including a public charter school; or an employee or private contractor of a local education agency or public school if the obscene material is harmful to minors and possessed on public school premises.

(3) Notwithstanding subdivision (e)(2), a public school librarian or an employee of a local education agency or public school responsible for reviewing or providing books or other educational materials to students enrolled in the local education agency or public school is exempt from prosecution under this subsection (e) unless the librarian or employee has previously been notified in writing by the librarian's or employee's director of schools or school principal to remove obscene material that is harmful to minors from the public school library and has failed remove the material determined to be obscene.

AND FURTHER AMEND by deleting Section 2 and substituting instead the following:

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 6, Part 3, is amended by adding the following as a new section:

(a) An LEA or public school, including a public charter school, shall not allow obscene materials or materials harmful to minors, as defined in § 39-17-901, to be available to students in the school libraries controlled by the LEA or public school.

(b) An LEA or public school shall not terminate, discipline, or otherwise take an adverse employment action against a public school librarian or an employee of the LEA or public school who is responsible for reviewing or providing books or other educational materials to students enrolled in the LEA or public school, for the presence of materials alleged or deemed to be obscene, harmful to minors, or inappropriate for students in the school library, unless the librarian or employee has previously been notified in writing by the librarian's or employee's director of schools or school principal to remove material determined pursuant to Section 3 to be obscene, harmful to minors, or inappropriate for students from the public school library and has failed remove the material that has been determined pursuant to Section 3 to be obscene, harmful to minors, or inappropriate for students.

AND FURTHER AMEND by deleting subsections (c)-(f) in the amendatory language of Section 3 and substituting instead the following:

(c)

(1) The local board of education or the governing body of the public charter school shall determine if the material is obscene or harmful to minors no later than the next regularly scheduled meeting of the board or the governing body after the thirty-day period in subsection (b).

(2) If the local board of education or the governing body of the public charter school determines that the material is obscene or harmful to minors, then the local board or governing body shall determine the ages and grades for which the material is determined to be obscene or harmful to minors and shall remove the material from the school library of each school governed by the local board or governing body that serves the ages and grades for which the material is determined to be obscene or harmful to minors. A person may, at any time, petition the local board or governing body to reconsider its determination that material removed from a school library pursuant to this section is obscene,

harmful to minors, or otherwise inappropriate for students. If such a petition is filed with the local board or governing body, then the local board or governing body shall review the material and make a determination as to whether the material should be returned to school libraries no later than thirty (30) days after the local board or governing body received the petition. If the local board or governing body determines that the material is appropriate for students, then the material must immediately be returned to each school library from which it was removed pursuant to this section.

(3) If the local board of education or the governing body of the public charter school determines that the material is appropriate for students, then the material must be returned to each school library from which it was removed by the respective director upon the local board of education's or the governing body of the public charter school's determination that the material is appropriate for students, or at the end of the thirty-day period identified in subsection (b), whichever is earlier. A local board's or governing body's determination that material is appropriate for students is final and is not subject to further review or reconsideration. A local board or governing body shall not accept petitions for reconsideration of, or otherwise remove from a school library, material that the local board or governing body has previously determined to be appropriate for students pursuant to this subdivision (c)(3).

(4) An LEA or public school shall not terminate, discipline, or otherwise take an adverse employment action against a public school librarian or an employee of the LEA or public school who is responsible for reviewing or providing books or other educational materials to students enrolled in the LEA or public school, for the presence of materials alleged or deemed to be obscene, harmful to minors, or inappropriate for students in the school library, unless the librarian or employee has previously been notified in writing by the LEA's local

board of education or the governing body of the public charter school employing the librarian or employee, or the librarian's or employee's director of schools or school principal to remove material determined pursuant to this section to be obscene, harmful to minors, or inappropriate for students from the public school library and has failed to remove the material that has been determined pursuant to this section to be obscene, harmful to minors, or inappropriate for students.

(d) If an LEA or public charter school fails to comply with the policy adopted pursuant to this section, then the commissioner may withhold state funds, in an amount determined by the commissioner, from the respective LEA or public charter school until the LEA or public charter school is in compliance.

(e) Each LEA and public charter school shall annually report to the department of education the material removed from the LEA's or public charter school's library pursuant to this section and the number of petitions for reconsideration received by the LEA or public charter school for the removed material pursuant to subdivision (c)(2).